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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,661	02/14/2001	Lee B. Cargill	1175.001	9107

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EXAMINER

GUTMAN, HILARY L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 03/15/2002

2

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/783,661

Applicant(s)  
Cargill

Examiner  
Hilary Gutman

Art Unit  
3612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 14, 2002 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

Art Unit: 3612

## DETAILED ACTION

### *Drawings*

✓ 1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

2. The drawings are objected to because the drawings are labeled in pencil. Correction is required.

(?) 3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "means for anchoring the forward section" of claims 9 and 24, the "outer flap draped over the front wall" of claim 10, and the "forward screen" and "cab access panel" of claims 13 and 27 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

\* these look to be the same element

4. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### *Specification*

5. The disclosure is objected to because of the following informalities:

✓ On page 2, line 16, "in" should be inserted after "is".

Art Unit: 3612

✓ On page 3, line 9, "the hook" should be "hook". On line 12 and in other instances throughout the specification "plural" is used to describe a plurality of features. Specifically, on line 12, "plural holes" should be "a plurality of holes". All instances in the specification where "plural" is stated preceding a plural noun should be changed to "a plurality of". ✓

On page 4, line 9, perhaps "conventional" should be inserted before "pickup truck". ←

✓ On page 7, line 23, "car" should be "can".

✓ On page 8, line 2, "pole" should be "poles". On line 5, "plural" should be "a plurality of" and on line 6, "partially attach" should be "are partially attached". ✓

✓ On page 10, line 10, "pole" should be inserted before "sleeve".

Appropriate correction is required.

✓ 6. The abstract of the disclosure is objected to because: on line 15, "cargo" should perhaps be "cargo box". Correction is required. See MPEP § 608.01(b).

### *Claim Objections*

7. Claims 1 and 11 are objected to because of the following informalities:

✓ In claim 1, on line 10, "is an" should be "is in an".

✓ In claim 11, line 2, "the each" should be "each".

Appropriate correction is required.

Art Unit: 3612

*Claim Rejections - 35 USC § 112*

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-13 and 16-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "each sidewall" in line 6 and "the tent sidewalls" in line 12. There is insufficient antecedent basis for these limitations in the claim. For the limitations the "tent sidewalls" perhaps this should be changed to "the center section sidewalls" or "the sidewalls of the center section".

Claim 3 recites the limitation "an angle" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the following limitations: "each cargo box sidewall" in line 1, "each inner flap" in line 2, and "each sidewall" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 7 recites the limitation "each inner flap" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 8 recites the limitations "the open tailgate" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Art Unit: 3612

Claim 9 recites the limitation "forward end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "each tent sidewall" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitations "forward wall" in line 2, "each sidewall" in line 5, and "the tent sidewalls" in line 7. There is insufficient antecedent basis for these limitations in the claim.

In claim 16, there is an inconsistency between the language in the preamble which sets forth that the claim is directed to a subcombination and lines 6-7 reciting a combination in that the side flaps of the center section of the tent assembly are positively recited are being interconnected to the body of the vehicle (the flaps are "attached" to the cargo box sidewalls), thereby making the scope of the claim indefinite and unclear. Applicant is required to clarify what subject matter the claim is intended to be drawn to, i.e., combination or subcombination, and to amend the language of the claim to be consistent with this intent. For the purpose of treating the claims base upon prior art, the claims have been treated as combination claims. If Applicant amends the claims to be directed to the subcombination, any indication of allowable subject matter will have to be reevaluated accordingly.

Claim 17 recites the limitation "the open tailgate" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 19 recites the limitations "an angle" in line 2, "the aft tent pole angle" in lines 2-3, and "an angle" in line 4. There is insufficient antecedent basis for these limitations in the claim.

Art Unit: 3612

Claim 21 recites the limitations "each sidewall" in line 1, "each inner flap" in line 2, and "each sidewall" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 23 recites the limitation "each inner flap" in lines 2 and 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 24 recites the limitation "forward end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 recites the limitation "each tent sidewall" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 5-6, 11-12, and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison.

Harrison discloses a tent assembly, generally 10, removably attached to a pickup truck 35 having a cargo box (Figure 1), the cargo box having left and right sidewalls, a forward wall therebetween, and a tailgate installed between the sidewalls, the tent assembly comprises: a center section defining a top 30, a left side wall, a right sidewall, each sidewall including an inner side

Art Unit: 3612

flap (Figure 4) and an outer side flap 22, the side flaps being draped over respective cargo box sidewalls and attached thereto, the sidewalls extending from the forward wall of the cargo box, along the length of the cargo box, and across the tailgate when the tailgate is in an open horizontal position (Figure 6); and means for anchoring the tent assembly to the tailgate in the open position.

Harrison also discloses each cargo box sidewall including an interior lip (Figure 4) and each inner flap including means 33, 36 for attaching the inner flap to the interior lip of each sidewall. In addition, means 24 for attaching the outer flaps to the cargo box are also disclosed. The tent assembly further comprises a side screen 40 incorporated into each tent sidewall, an aft screen (Figure 2), and a door panel 11 incorporated into the aft section.

Harrison also discloses a pickup truck tent camping system, for use in conjunction with a pickup truck, the tent camping system comprising: cargo box means (Figure 1); tent means 10, 30 covering the cargo box means; and flap means 22 (Figure 4) holding the tent means onto the cargo box means. Harrison also inherently discloses tensioning means 24 for holding the tent means in a stretched configuration.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are



Art Unit: 3612

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison as applied to claim 1 above and further in view of Mahan '040.

Harrison lacks the means for anchoring the tent assembly to the tailgate including a horizontal flap connected to the tent sidewalls and installed beneath the tailgate.

Mahan '040 discloses a tent assembly removably attached to a pickup truck having a cargo box, the cargo box having left and right sidewalls, a forward wall therebetween, and a tailgate installed between the sidewalls. The tent assembly comprises: a center section having left and right sidewalls, wherein each sidewall extends from the forward wall of the cargo box, along the length of the cargo box, and across the tailgate when the tailgate is in an open horizontal position; and means for anchoring the tent assembly to the tailgate in the open position. In addition, Mahan '040 discloses the means for anchoring the tent assembly to the tailgate including a horizontal flap (Figure 4) connected to the tent sidewalls and installed beneath the tailgate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created the means for anchoring the tent assembly to the tailgate of Harrison to include a horizontal flap as taught by Mahan '040 as an obvious expedient.

Art Unit: 3612

14. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliveira.

Oliveira discloses a pickup truck tent camping system, for use in conjunction with a pickup truck having a cargo box, the tent camping system comprising: at least a platform assembly installed in the cargo box and at least a tent assembly installed over the platform assembly.

In addition, Oliveira discloses the cargo box including a floor (Figures 1 and 2) having left and right sidewalls extending therefrom. The platform assembly is suspended from the sidewalls above the cargo box floor such that a storage space is established under the platform assembly.

Oliveira lacks the pickup truck tent camping system having at least a tent cover installed over the tent assembly.

However, double walled tent systems or tent covers are well known in the prior art and can generally be used for insulating the tent system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the system of Oliveira with a tent cover as is well known in the prior art in order to provide the tent system with double walls for insulating purposes.

15. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison as applied to claim 31 above and further in view of Oliveira.

Harrison lacks a platform means disposed within the cargo box means beneath the tent means.

Art Unit: 3612

Oliveira discloses a pickup truck tent camping system, for use in conjunction with a pickup truck having a cargo box, the tent camping system comprising: cargo box means; tent means covering the cargo box means; and a platform means disposed within the cargo box means beneath the tent means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have placed platform means as taught by Oliveira upon the cargo box means of Harrison in order to provide storage space under the platform means.

16. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison, as modified, and as applied to claim 32 above.

Harrison, as modified, lacks a tent cover means disposed over the tent means.

However, double walled tent systems or tent covers are well known in the prior art and can generally be used for insulating the tent system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the system of Harrison, as modified, with a tent cover as is well known in the prior art in order to provide the tent system with double walls for insulating purposes.

Art Unit: 3612

*Allowable Subject Matter*

17. Claims 2-4, 7, 9-10, 13, and 16-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other tent assemblies similar to that of the current invention.

19. Any inquiry concerning this communication from the examiner should be directed to Hilary L. Gutman whose telephone number is (703) 305-0496.

20. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**or faxed to:**

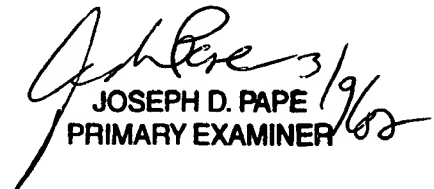
(703) 305-3597, (for formal communications intended for entry)

**or:**

(703) 308-3297, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

hlg

March 6, 2002

  
JOSEPH D. PAPE  
PRIMARY EXAMINER